if evidence of the unreasonableness of the old rate had been excluded at the hearing, or had been introduced and had been disregarded, the order would be void as based upon an inadequate or unfair hearing. See *Interstate Commerce Commission* v. *Louisville & Nashville R. R.*, *supra*. But in the principal case no evidence pro or con as to the reasonableness of the old rate was offered. See 13 RATE RESEARCH, 261; P. U. R. 1919 A 204. Where an existing rate is attacked, the burden is on the complainant to establish that it is unreasonable. *Louisville and Nashville Railroad* v. *United States*, 238 U. S. 1; *Louisville and Nashville Railroad* v. *Finn*, 235 U. S. 601. By the same reasoning, it would seem that in the principal case the commission was justified in assuming the old rate to be reasonable and in ordering an increase on the basis of the rise in operating expenses.

CONSTITUTIONAL LAW — PERSONAL RIGHTS: CIVIL, POLITICAL, AND RELIGIOUS — POWER OF THE STATE TO LEGISLATE IN FEDERAL MATTERS. — A state statute provided that all male residents of the state between the ages of eighteen and fifty-five, not in the national army, should be usefully employed, and that "every such person who shall not be so employed shall be subject to be assigned by the said council [of defense] to such employment as the said council shall from time to time determine and at such compensation as the said council and employer shall agree to be reasonable and proper." The statute made a refusal to work a misdemeanor. *Held*, that this statute is constitutional. *State* v. *McClure*, 105 Atl. 712 (Del.).

In time of peace, this statute would probably not be violative of the Thirteenth Amendment, since one could exercise his volition in the choice of and change of his occupation, although there are very few decisions upon involuntary servitude that are at all helpful. See *Peonage Cases*, 123 Fed. 671, 680; *Bailey* v. *Alabama*, 219 U. S. 219, 241. Although the question has never been decided, it is also probable that such a statute would not be held to deprive one of liberty without due process of law, nor deny to him the equal protection of the laws. See Felix Frankfurter, "Constitutional opinions of Justice Holmes," 29 HARV. L. REV. 683. Whatever might be true in time of peace, such an enactment by Congress in time of war would undoubtedly be constitutional. U. S. CONSTITUTION, Art. I, § 8; *Selective Draft Law Cases*, 245 U. S. 366. See Charles M. Hough, "Law in War Time — 1917," 31 HARV. L. REV. 692. The only other question is whether a state has power to pass such a statute in aid of the federal government. A state may exercise any power that is not taken from it expressly or by necessary implication. *Halter* v. *Nebraska*, 205 U. S. 34. Thus, it has been held that a state may legislate against the use of the United States flag for advertising purposes. *Halter* v. *Nebraska*, *supra*. And a state may pass laws in aid of interstate commerce, an admittedly federal matter. *Western Union Telegraph Co.* v. *James*, 162 U. S. 650; *Western Union Telegraph Co.* v. *Crovo*, 220 U. S. 364. The statute under consideration seems therefore to have been properly upheld.

CONSTITUTIONAL LAW — PRIVILEGES, IMMUNITIES, AND CLASS LEGISLATION — DENIAL TO ALIENS OF THE RIGHT TO MAINTAIN BILLIARD ROOMS. — An ordinance of Cincinnati required persons maintaining pool and billiard rooms to be licensed, and provided that no license be granted to a person who was not a citizen of the United States. *Held*, that the ordinance is constitutional. *State ex rel. Balli* v. *Carrell, auditor*, 124 N. E. 129 (Ohio).

Keeping public billiard rooms for hire is an occupation which the state may prohibit in the exercise of its police power. *Murphy* v. *People of California*, 225 U. S. 623. *A fortiori*, the state may require persons engaged in that occupation to be licensed. Aliens may be excluded from privileges of citizens when, as a class, they are the persons from whom the evil sought to be corrected is

mainly to be feared. *Patsone* v. *Pennsylvania*, 232 U. S. 138. But, in view of recent events, undue ardor in restricting aliens may be expected and this tendency must be checked by the courts. Thus, a statute which prohibited the employment of aliens beyond a certain percentage of the total number of employees was properly declared unconstitutional. *Truax* v. *Raich*, 239 U. S. 33. However, a state may refuse to grant liquor licenses to aliens. *Trageser* v. *Gray*, 73 Md. 250, 20 Atl. 905. Or peddlers' licenses. *Commonwealth* v. *Hana*, 195 Mass. 262, 81 N. E. 149. *Contra*, *State* v. *Montgomery*, 94 Maine, 192, 47 Atl. 165. But not barbers' licenses. *Templar* v. *Board of Examiners*, 131 Mich. 254, 90 N. W. 1058. It seems proper, in the exercise of the police power, that the legislature primarily should decide whether there is sufficient reason to deny to aliens a given privilege. In the principal case, the restriction seems well within the discretion of the legislature.

CONTRIBUTORY NEGLIGENCE — STATUTORY ACTIONS — NEGLIGENCE OF AN EMPLOYEE OF A PROHIBITED CLASS. — A statute provided that no child under fourteen years of age should be employed to run an elevator. The plaintiff sues for injuries received while employed in violation of this statute. His injuries were partly the result of his own negligence. *Held*, that the plaintiff recover. *Karpeles* v. *Heine et al.*, 124 N. E. 101 (N. Y.).

Obviously, the decision is to be limited to cases where the plaintiff is one of a class which the violated statute intended to protect or benefit. Yet even in such cases the majority of the older decisions allowed the defense of contributory negligence. *Freeman* v. *Glens Falls Paper Mill Co.*, 70 Hun (N. Y.) 530; *Lee* v. *Stirling Silk Mfg. Co.*, 115 N. Y. App. Div. 589, 101 N. Y. Supp. 78. But the modern tendency is in accord with the principal case. *Strafford* v. *Republic Iron and Steel Co.*, 238 Ill. 371, 87 N. E. 358; *Lenahan* v. *Pittston Coal Mining Co.*, 218 Pa. 311, 67 Atl. 642. There is still, however, authority in support of the opposite view. See *Berdos* v. *Tremont & Suffolk Mills*, 209 Mass. 489, 95 N. E. 876, 879. It is submitted that the confusion arises from the attempt to treat the liability incurred by the violation of the statute in these cases as based on negligence, whereas it is really an absolute liability. This view is not without support. See *Lenahan* v. *Pittston Coal Mining Co.*, *supra*.

CORPORATIONS — CORPORATE STOCK — ATTACHMENT — REFUSAL TO ISSUE CERTIFICATES OF STOCK. — At a judicial sale under statutory provisions, the plaintiff bought shares of stock in a domestic corporation. The shares were owned by a nonresident, who at the time held the certificates outside of the jurisdiction. Thereupon the plaintiff demanded of the officers of the corporation that they issue to him new certificates. On their refusal he sued for the value of the stock. *Held*, that no statute imposed any duty on the corporation to transfer the stock upon its books. *Harris* v. *Mid-Continent Life Ins. Co.*, 182 Pac. 85 (Okla.).

Some courts hold, with the principal case, that stock is an intangible property right subject to attachment only at the situs of the corporation, and that the certificates are but evidence of ownership. *Maertens* v. *Scott*, 33 R. I. 356, 80 Atl. 369; *Barber* v. *Morgan*, 84 Conn. 618, 80 Atl. 791. The court admits that the purchaser at the attachment sale became a stockholder. As such he was entitled to a certificate. *Commercial Bank* v. *Kortright*, 22 Wend. (N. Y.) 348; *Nat'l Bank* v. *Watsontown Bank*, 105 U. S. 217; *Rio Grande Cattle Co.* v. *Burns*, 82 Texas, 50, 17 S. W. 1043. Without it his right practically was nonmarketable. See 1910 1 REV. LAWS OF OKLA., § 1237. Had the corporation issued the certificates to the plaintiff it would have incurred the risk of liability to a *bona fide* purchaser of the outstanding certificates. *Nat'l Bank* v. *Stribling*, 16 Okla. 41, 86 Pac. 512. See 2 COOK ON CORPORATIONS, 7 ed., § 489. The decision makes the assumption of this risk